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22 January 2015

## Missouri's chief justice delivers 2015 State of the Judiciary address

*Mary R. Russell, chief justice of the Supreme Court of Missouri, delivered the following State of the Judiciary address Thursday morning, January 22, 2015, during a joint session of the General Assembly in Jefferson City, Mo.*

Lieutenant Governor Kinder, Speaker Diehl, President Pro Tem Dempsey, members of the General Assembly, the executive branch, my judicial colleagues and everyone gathered here in this chamber. It is my great honor once more to present the state of the judiciary address – one of my most important duties as your chief justice.

This majestic capitol building and the supreme court building across the street are truly state treasures. Hallways in both display pictures of our predecessors – legislators in composites and judges in individual portraits. Every day I walk past the portraits in our building, and many times I reflect on the legacy of those former judges. Perhaps you, too, stop and examine the composites of former legislators who once sat in your seats, remembering their accomplishments.

Also on this building's walls, in the first floor museum, is a plaque listing the names of the Missourians who were veterans of the Revolutionary War, including the name of my great-great-great-great-grandfather, Samuel Rhodes. Whenever I view that plaque downstairs, I realize the legacy left by him and others who first settled in Missouri after statehood. They helped shape the Missouri we live in today.

But the foundation for many of the rights that we enjoy today, including the right to a trial by jury and other due process guarantees, can be traced back to the Magna Carta – which we celebrate for its 800th anniversary this year. In the fields at Runnymede, the lords of England in 1215 acted to have King John sign this document, which would become the world's most enduring symbol of the rule of law.

As the book of Ecclesiastes declares, "To every thing there is a season." As with those who acted centuries ago, this is our season to act. When others look at our pictures and reflect on our legacy, what will come to their minds? What do you want your legacy to be? Will we be remembered for making Missouri a better place to live and work, or will we be remembered for passing on our problems? Even if just a beginning, our best efforts can have lasting impact.

### *Continuing to make Missouri's courts better*

**Last year, I talked with you about ways to make Missouri's courts better. By integrating technology to make the courts more accessible for our citizens, cases can be resolved faster and at less cost. These efforts require a vast investment of resources. But the public expects this investment, as at least 87 percent of American adults have access to the Internet, and a recent survey shows that most people prefer to get court records and pay court fines all online.**

**Our Case.net system, which allows people at the click of a button to search public case information, continues to be extremely popular. Last year it had more than 540 million hits! Now, more than half of our state courts have electronic filing for cases, with nearly 40 more courts**

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- **State of the Judiciary, Jefferson City, January 2015**
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- The Missouri Bar/Judicial Conference annual meeting, St. Louis, September 2004

expected to join this year. By the end of 2016, we hope to have electronic filing statewide.

Electronic filing also enables the judicial branch to continue expanding its connections with state executive branch departments. Thanks to a brand new enhancement to our system, Judge Jon Beetem in Cole County, for example, can now receive probation violations electronically from the department of corrections. We hope to expand this enhancement to county officials such as sheriffs and public administrators so they can electronically transmit routine paperwork with the courts. This saves government time and money.

In addition, videoconferencing is available in every state courthouse and averages around 500 calls per month. And now, anyone with a web camera can videoconference with a court. This means Judge Kristie Swaim in Adair County, for example, can videoconference with the local jail and state correctional facilities. This promotes community safety by keeping offenders incarcerated – and reduces the cost of transportation to and from the courthouse. And in mental health proceedings that require medical testimony, judges like Deborah Daniels in Boone County can allow doctors to testify by videoconference, giving them more time to treat other patients.

With the use of iPads or other tablets, judges from Twila Rigby in Jackson County to Kerry Rowden in Maries County to Rick Zerr in St. Charles County, for example, can be available anywhere, anytime, to do the important work that needs to be done. This means requests for warrants or juvenile detention orders or even orders of protection can be transmitted to the judge, reviewed, signed and transmitted back in time measured in minutes rather than hours. This is important, because these requests come in anytime, day or night.

We have also started a Pay By Web feature allowing Missourians a convenient way to make payments online toward outstanding costs owed in certain cases. This new system has been implemented in more than 25 courts – from McDonald County to Buchanan County to the city of St. Louis. We are excited about this new feature and hope to continue expanding its reach throughout the year.

In addition, we are seeking to make jury service as convenient as possible for the thousands of Missourians who fulfill this valuable public duty each year. We are studying various electronic methods for notifying jurors, to make their service simpler and more streamlined.

#### *Working together with constitutional partners*

While we in the judiciary continue striving to be innovative in improving Missouri's courts, we appreciate your efforts to improve the laws of Missouri. Last year, for example – in cooperation with The Missouri Bar, the courts, prosecutors, and defense counsel – you passed the first comprehensive update of the state's criminal code in 35 years.

Recent events suggest the need to review Missouri's municipal court divisions. Municipal divisions play an important role in enforcing local laws, and they handle more than two-thirds of all cases filed in our state courts. For many people, the municipal divisions are the first and only contact they have with the court system. And, as we all know, first impressions can be lasting impressions.

From a local municipal division to the state Supreme Court, Missouri's courts should be open and accessible to all. Courts should primarily exist to help people resolve their legal disputes. If they serve, instead, as revenue generators for the municipality that selects and pays the court staff and judges – this creates at least a perception, if not a reality, of diminished judicial impartiality.

Courts must give consideration to those unable to pay any fine that is imposed. To that end, the Supreme Court recently adopted a new rule – that if people demonstrate they are unable to pay a fine, municipal judges will be required to give them more time to pay it.

We in the judiciary are aware that you, too, will be giving thoughtful consideration to improving the municipal divisions. It is important that those municipal divisions that are not working well do not overshadow the many divisions around our state that do. But as the Rev. Dr. Martin Luther King Jr. once wrote, "We are caught in an inescapable network of mutuality, tied in a single

garment of destiny. Whatever affects one directly, affects all indirectly.”

It is important to ensure that municipal divisions throughout the state are driven not by economics, but by notions of fairness under the rule of law. The Supreme Court is ready to work with you to ensure that people who appear in municipal courts are treated fairly and with respect.

### *Protecting our children*

As public servants, we will be remembered by how we protect our citizens, including our children. It is disturbing that about 14,000 children – through no fault of their own – are in the custody of the children’s division, as wards of Missouri’s courts. Most of these children are living in foster care because they have parents who abused or neglected them.

This alarming number of children in foster care, unfortunately, reflects an increase of more than 44 percent in just the last five years. Many of these children in foster care face an uncertain future, being moved from foster home to foster home, carrying everything they own in just a black trash bag. I always say that, but for the grace of God, I might have been one of those children too.

Your efforts are vital to ensuring continued improvements in all our child welfare laws. Last year, you passed Senate Bill 869, which gives foster parents the right to participate in court hearings involving children in their care. This recognizes the valuable role played by foster parents, and gives the court access to the first-hand information they possess.

The lives of children in foster care are also enhanced by the volunteer efforts of many of your constituents. One such effort involves the court-appointed special advocates program, also known as CASA. This year, CASA will celebrate its 35th anniversary in Missouri.

It is the only program in which everyday citizens, who – after rigorous screening and special training – are appointed by judges to help determine what is in the best interest of abused or neglected children. By getting to know the children and their families well, these special advocates provide stable connections for the children while becoming the “eyes and ears” of the court. Children with CASA volunteers are substantially less likely to spend time in long-term foster care and are more likely to be adopted.

Last year, there were nearly 11,000 children in foster care who did not have the benefit of a CASA volunteer. I encourage you to learn more about CASA. Your support can help the program grow, and, if your district does not have a CASA program, your leadership can help fill that gap for the abused and neglected children in your area.

I have been honored to serve on the state CASA board and work with its outstanding executive director, Beth Dessem, who will receive the Carnahan Award for Public Service next month. Beth is here with us today. Please join me in congratulating her.

When it comes to helping our children, another one of my passions is truancy court. This positive reinforcement program teaches children the importance of regular school attendance, helping them realize the benefit that education can have in their future. Like many judges around the state, I have volunteered in middle schools by presiding over truancy courts now for more than a dozen years. Because frequent school absence can be a sign of future delinquent and, eventually, criminal behavior, these programs are designed to nip the problems in the bud. As the famous author Victor Hugo said, “He who opens a school house door, closes a prison.”

At the beginning of each semester, I tell the students in the truancy court program that state law requires them to attend school a reasonable amount of time or their parents can be charged with a misdemeanor. Early on Thursday mornings, I meet with students and some of their family members at Lewis and Clark Middle School here in Jefferson City to review progress reports from teachers regarding not only their attendance, but also their academic performance and their behavior. The students set goals to achieve by the next week, and we sign a contract promising to work toward those goals. I am proud to introduce to you some of my most successful students -- Terrik Hampton, Mackenzie Henderson and Andy Malone -- who are accompanied by their principal, Sherri Thomas, who is celebrating her birthday today! Please stand and be

recognized.

### *Protecting our veterans*

Missouri also has had great success with the treatment court model. Instead of paying the bill for a lifetime of in-and-out incarceration, Missouri has found that investing in treatment courts gives nonviolent offenders an opportunity to beat their addictions, helping to reduce the likelihood of repeat criminal behavior. Now in their third decade, Missouri treatment courts have had more than 15,000 graduates – with more than 680 drug-free babies born to program participants.

We have worked with the legislature to expand this program in careful and sustainable stages. There are now more than 135 programs throughout the state, with an active enrollment of more than 3,600 participants right now. In fact, Missouri has more treatment court programs per capita than any other state in the country.

One of our newest treatment court programs focuses on a very special population – our veterans. It is unfortunate that some of our veterans return home with symptoms of a mental health disorder or cognitive impairment or turn to substance abuse to help them cope. Some of these struggling veterans end up in our criminal system. As President Lincoln said during his second inaugural address, made just a month before the Civil War ended, “... let us strive ... to care for him who shall have borne the battle ....” And so we do strive to use the opportunities created by these treatment courts to care for our veterans. They deserve nothing less.

We have established seven veterans treatment courts serving 37 counties as well as Kansas City and the city of St. Louis. These programs serve veterans struggling with addiction, serious mental illness – or both – by promoting sobriety, recovery and stability. Key to the success of these programs is the support of other veterans who serve as mentors. These veteran-mentors have walked in the same boots and truly understand the unique challenges our servicemen and women face when they return home. We appreciate the support that you have shown to these programs through your legislation – which has had a positive impact on the lives of more than 100 soldiers so far.

Among these graduates is Phillip, who served twice in Iraq and was medically discharged. Barely six months later – suffering from both mental health and substance abuse issues – he was arrested for misdemeanor drug possession and, during a subsequent court appearance, got into an altercation with a bailiff. While participating in Boone County’s veterans treatment court program, he worked hard to comply with stringent requirements such as random drug testing, counseling and weekly court sessions. He credits the opportunity the court gave him for changing the direction of his life. He continues to serve now by riding his motorcycle to help escort the Mid-Missouri Honor Flights. Phillip is with us here today, along with members of his treatment team. Please join me in congratulating Phillip on his success!

### *Protecting our elders*

But as we seek to create a positive legacy in the ways we serve our veterans and our children, we must not forget our elders, to whom we owe much. As baby boomers continue to age and people live longer, we are on the brink of an unprecedented population shift, with a higher percentage of older people than ever before. This “Silver Tsunami” is resulting in more of us having silver hair – except, of course, for those of us with a hairdresser with a cure for that! Experts predict that, in just five years, the number of Americans age 65 or older will exceed the number of school-age children. And, just 10 years after that, one-fifth of all Missourians will be 65 or older.

With a larger senior population, we can expect increases in the number of probate cases and hearings involving mental capacity. At least one of our courts is already seeing this impact. Pat Connaghan of St. Louis – last year named the national probate judge of the year! – reports a dramatic increase in the number of older persons with dementia in need of a court-appointed guardian or conservator. It is incumbent on us now to reexamine the laws to ensure that guardians and conservators promote independence, not dependence, for those in their care. We must also tighten our laws to provide maximum protection against elder abuse, neglect and financial exploitation.

Serving as a guardian or conservator often means having to make difficult decisions about the care and well-being of loved ones, the management of their money, and balancing their needs with their desires and personal dignity. We should applaud all caretakers for their service.

### *Conclusion*

In conclusion, how we effect meaningful change in the lives of Missourians will be a part of how we all – the legislature and the courts – will be judged by history. Finding ways to better serve our state requires us to be a part of something bigger than any of us. I truly hope that our legacy will be one of collaboration, accomplishment and improvement.

And I hope that we all find honor in the achievements we are able to make. It is certainly the honor of my life to serve as your chief justice, leading a court system devoted to fairness for Missourians and to making positive impacts on those children, veterans and elderly whose lives intersect with the courts.

But at the end of the day, how judges decide cases or how you vote on a bill or amendment, all fades away when we arrive home from our duties, greeted by our loved ones. We all have important jobs and titles – whether it be representative, senator or judge. But those jobs and titles are only temporary. The other titles we have – Mom, Dad, sister, brother, daughter, son, friend – are much more important, as they are permanent, and so are the relationships those titles represent.

Some of the most important people in my life are here today, including our 2-year-old granddaughter Avery and her parents, Heather and Allen Todd, of Webster Groves. Avery is now the ninth generation of our family to live in Missouri. She comes from a family of public servants, with both grandfathers being former members of this House. So please welcome back my husband, Jim Russell, and Avery's other grandfather, Tom Todd.

I hope for Avery – just as you do for your children, grandchildren, nieces and nephews – that they will live productive and fulfilled lives. Let us not disappoint our generations to follow when they walk past our pictures on the wall. This is our season to act – our opportunity as constitutional partners to leave meaningful improvements for the lives and livelihoods of future generations of Missourians.

Our time is short. Let us take the privilege we now experience and do all we can to make Missouri the best state in the nation. Thank you.